

A. J. McCREARY.

APRIL 27, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PERKINS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7924.]

The Committee on Indian Affairs, to whom was referred House bill 7924, beg leave to report:

The present claimant in this case, A. J. McCreary, is the administrator of J. M. Hiatt, who was the surviving member of the firm of Hiatt & Co., who were Indian traders in 1873 at the Osage Agency (Pahuska), Indian Territory.

In consequence of the failure of Congress to make adequate appropriation for the support of these Indians, as it had done in previous years, there being a reduction of about \$200,000 in their annuities, the Indians were found to be in great destitution, suffering both for food and clothing. This condition of the Indians is a fact well supported by the evidence, and in consequence of it all the chiefs, councilors, the governor, and head-men of the Osage tribe of Indians made an urgent appeal to the Indian traders, which was approved by Cyrus Beede, then United States Indian agent at that agency, to extend to the Indians a credit of from \$8 to \$10 per capita, promising payment out of their next expected annuity, which it was supposed would be ample for the purpose; but the next annuity, instead of being \$15 per capita, as had been expected, was reduced to but little over \$3 per capita, the result of which was that the condition of the Indians was left as bad as it had been before, and payment of any credit extended to them was rendered impossible.

It is well supported by evidence that the traders were very careful in making such extended credit. They had the advice and assistance of some of the chiefs, Governor Joseph Pard Ne No Parhe, commonly called Governor Joe, a full-blood, though an educated man of character, and Paul Akin, United States interpreter, and the Indian agent, Cyrus Beede, in seeing and directing that the goods and supplies might be fairly distributed to all the families and individuals of the tribe.

After it became apparent that the Indian traders, Hiatt & Co., would not be able to secure the payment of the credit extended by them from the individual Indians out of their annuities, it was proposed that the indebtedness should be assumed by the governing council of the Osage tribe of Indians, and paid out of their national fund. The national fund of these Indians at that time amounted and still amounts to about \$6,000,000, and they have an accumulated interest fund of between

\$500,000 and \$600,000. The original credit was extended upon the faith and promises of the governing body of the Indians and their head chiefs that the payment would be guaranteed by the nation, and subsequently thereto there was an adjustment of the account, as hereinafter explained, between the governing council of the Osage tribe of Indians and J. M. Hiatt & Co., whereby it was ascertained that the amount of the indebtedness due to Hiatt & Co. for the necessities thus supplied to the Indians in their destitution and distress amounted to \$16,759.99. The claim as thus stated was referred to the governing council of the Osage tribe of Indians. The authority of this governing council is shown by the following action of the tribe:

OSAGE AGENCY, IND. T., June 2, 1876.

This certifies that at a meeting of the chiefs, councilors, and head-men of the Osage tribe of Indians, held at their council room at the Osage Agency, Indian Territory, this the 2d day of June, 1876, Joseph Pawneenopashe has been duly elected governor, and Chetopa has been elected chief councilor for our tribe, to hold their respective offices for two years from the date hereof, unless sooner removed for cause by the chiefs and head-men of the nation, or by the United States agent for the tribe, of which cause the chiefs and head-men in council assembled, by vote, or the United States agent, shall determine.

It is also agreed by the council of chiefs and head-men assembled that the governor and chief councilor elect shall, with the approval of the United States agent, appoint five leading men of the tribe, to be associated with themselves, constituting the business committee of the tribe, in the transaction of its business with the agent, and the committee thus elected and appointed are authorized to receipt for supplies and annuities issued by the agent and the Government of whatever kind; to examine and act on behalf of the tribe on all matters of claims against our tribe, individual bands, or members thereof.

The associate committee, or any of them thus appointed, shall be subject to removal at any time, and in like manner and for like cause as the governor and chief councilor may be removed, or, for like cause, may be removed by the governor and chief councilor jointly.

The governor, chief councilor, and associate committee are elected and appointed with the express understanding and agreement on their part that they shall labor faithfully for the advancement of the tribe and all its members in civilization; they shall aid in preventing any violation of law by any of our people, in the arrest and punishment of all violators of the law on our reservation; they shall aid in the arrest of any person found on the reservation with "whisky" or any other intoxicating liquor without authority of law; they shall in no case use the same themselves nor allow their people to do so.

They shall restrain their people from committing any acts of depredation, from molesting any private or public building. They shall in no case enter any of the public buildings about the agency without authority nor allow other members of the tribe to do so, and any failure on their part to comply with these regulations shall be regarded as sufficient cause for immediate removal from office.

For the faithful performance of the duties herein imposed the governor shall receive, as heretofore, a salary of \$500 per annum, the chief councilor \$400 per annum, and each of the associate councilors \$300 per annum, to be paid from our tribal funds.

CHIEFS OF BANDS.

(Signed with an x mark:)

Big Chief, White Hair, To-wauge-he, Black Dog, Napa Walla, Nun-sa-wah-hah, Clammere, George Beaver, Strike Axe, Saucy Chief, We-kah-ke-pah-ne, Tall Chief, Wah-ti-an-ka, Town Maker, Glado-mo-sa, William Penn, Little Chief

COUNCILORS AND HEADMEN.

(Signed with an x mark:)

Mo-sho-o-logy, Hard Rope, Kaw Striker, Wash-kom-wa, Two Giver, Little Fool, Okun-tsa-wah-sko, Belvizo, Big Heart, Che-sho-wahti-an-ka, Soppa-kea, Bare Leg, Saucy Osage, Saucy Paoli, Big Elk, Olo-hoh-wah-la, Strike Axe, Epe-sousa, Little Fool, Brake Bero, Dark, Wah-tsa-woh-hea, Bad Temper, Dog Thief, Scare Dog, Nia-hah-ka, Ambitious Man, Tally, White Horn, Big Hail, Black Fist, Eagle, Iron Collar, Tsa-moie, Noisy, Wah-hah-da, Tsa-no-poh-she, White Horn, Chief Stroud, Ne-kah-ko-la, Step-Long, Man, Hard Heart, Mo-o-lah-hah, Samuel Beivenue (signed), Anthony Del Orier (signed), Che-mah-hah.

OSAGE AGENCY, IND. T., June 2, 1876.

I certify on honor that I have interpreted the foregoing instrument of writing to the Osage tribe of Indians in council assembled this the 2d day of June, 1876, to their understanding, and that the signatures and marks of the chiefs and head-men thereto were made in my presence and are genuine.

PAUL AKEN,
United States Interpreter.

OSAGE AGENCY, IND. T., June 2, 1876.

We certify on honor that we were present at the council held with the Osage tribe of Indians this 2d day of June, 1876; that the foregoing instrument of writing was fully explained to them in our hearing; and that the signatures and marks of the chiefs and head-men thereto were made in our presence and are genuine.

J. L. STUBBS,
R. W. HOPKINS.

OSAGE AGENCY, IND. T., June 2, 1876

Done in my presence this 2d day of June, 1876.

CYRUS BEEDE,
United States Indian Agent.

OSAGE AGENCY, IND. T., December 11, 1877.

Official copy of proceedings of Osage council of Indians, held at the Osage Agency, Ind. T., June 2, 1876.

Attest:

CYRUS BEEDE,
United States Indian Agent.

The firm of Hiatt & Co. and its clerks met the governing council and the accounts were settled and adjusted, and the governing body then and there executed a formal recognition of this statement of accounts and balance, and requested the Secretary of the Interior to pay the same, as appears by the following petition:

To the honorable Secretary of the Interior :

The undersigned, the governor, chief councilors, and head chiefs, constituting the business committee of the Osage tribe of Indians, respectfully ask that you pay to Hiatt & Co. the sum of \$16,759.99 out of the money accruing to us by act of Congress approved June 16, 1880.

The above sum is the correct aggregate of accounts against our people for supplies furnished them, and which they have hitherto been unable to pay.

The accounts are correct, the supplies were needed and had, and as honest men we desire payment to be made as promptly as possible.

To that end we make this requisition upon you, and this shall be our receipt for the same.

JOSEPH PARD NE NO PARHE,
Governor of the Nation.
STRIKE AX (his x mark), *Chief.*
BIG CHIEF (his x mark).
BLACK DOG (his x mark).
HARD ROPE (his x mark).
N. H. CONNOR.

Interpreted fully and signed.

Explained in our presence, Osage Agency, Ind. T., August 17, 1880.

W. P. ADAIR.
THOS. R. GAY.
DANIEL TERDALL.

Paul Akin, at that time the official interpreter for the Indians, gave the following certificate:

I hereby certify that I am entirely familiar with the character, origin, and amount of Hiatt & Co.'s claim of \$16,759.99 against the Osages, payment of which has been asked by the governor and chiefs of the tribe. I advised giving the credit, and interpreted largely for the Indians when they traded; that I also interpreted and explained fully the order they have given for the payment.

Osage Agency, Ind. T., August 17, 1880.

PAUL AKIN,
United States Interpreter.

EVIDENCE OF THE CLAIM.

The following evidence was presented in support of the claim:

KEOKUK, IOWA, September 8, 1885.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.:

SIR: I was for a number of years preceding 1880 the acting member of the firm of Hiatt & Co., duly licensed traders for the Osage tribe of Indians at the Osage Agency (Pahuska), Indian Territory.

During the year 1878 I was appealed to by Governor Joe, and nearly if not quite all of the chiefs, councilors, and head-men of the Osage tribe of Indians, to extend to the Osages a credit of from \$8 to \$10 per capita, promising payment out of their next annuity, which was expected to be ample for that purpose. The appeal was supported and the credit approved by Cyrus Beede, United States Indian agent for the Osages at that time, promising to use his official influence to have said firm promptly paid. I did, as acting partner of Hiatt & Co., extend to the Osage Indians credits to the amount of \$16,759.99, keeping a carefully itemized account of all goods sold to each head of a family, part of a family, and individual. Paul Akin, United States interpreter, Governor Joe, Sam Bevenue, chief of the half-breeds, and other chiefs and head-men, were freely and fully consulted with as to who were the proper persons, and the amount they were entitled to of such credit. Every precaution was taken to have the credit fairly distributed to all the members of the tribe; but the next annuity, instead of being \$15 per capita, as expected, was reduced to a little over \$3 per capita, so that the payment of our claim out of that was impossible, and before the annuities were equal to its payment Agent Beede was superseded by an agent who has, for reasons unknown to me, constantly resisted the payment of our claim.

Finding that an appeal would have to be made to the Commissioner of Indian Affairs for its payment, in the summer of 1880 we went before the governor, chief councilors, and head chiefs, constituting the business committee of the tribe, with our books, containing all the itemized accounts, our chief clerk, Mr. Gay, and Paul Akin, United States interpreter, and after a long and careful examination of all the items composing, the amount of \$16,759.99 was found to be due the firm of Hiatt & Co., as fully appears by the petitions and certificates of the business committee, chiefs, etc., herewith submitted. Since perfecting the accounts, as above stated, the desperate condition of my health and the continued opposition of the agent has delayed the payment of our claim or the proper presentation of it to the Interior Department. I have been anxiously waiting, hoping that my health would improve so that I could give it my personal attention, but now despairing of that I have secured the services of my friend, William G. Coffin, to obtain all the necessary corroborative evidence possible, after so long a delay. I do most solemnly aver that the account is just; the supplies were needed and were furnished the Indians in good faith as charged, and at fair prices, and I trust that no further delay that can be avoided will be suffered in its payment. I will say that, owing to my prostration by sickness, I have never been to the agency since the examination and adjustment of our accounts by the business committee. I was obliged to sell the store without being able to attend to closing up the business there. The books and papers were boxed up and sent to me, but for some reason, through carelessness or something worse, the book containing the itemized account of the extended credit, after the most diligent search, I have been unable to find, or the items would have been furnished. All of which is most respectfully presented.

JNO. M. HIATT.

STATE OF IOWA,
Lee County:

I, J. M. Hiatt, surviving partner of Hiatt & Co., on my oath depose and say that I am acquainted with the foregoing, and that the statements as set forth are true, as I verily believe.

Subscribed and sworn to before me, Harrison Tucker, a notary public in and for Lee County, Iowa, this 8th day of September, A. D. 1885.

[SEAL.]

HARRISON TUCKER,
Notary Public.

OSKALOOSA, IOWA, December 1, 1885.

I certify on honor that I have examined the statement of J. M. Hiatt, of the late firm of Hiatt & Co., licensed traders at Osage Agency, Ind. T., and believe the same to be substantially correct.

I was United States Indian agent for the Osage Indians from the early part of the year 1876 to about the 20th of July, 1878. During a great portion of this time the Osages were in a peculiar state of destitution, owing to the failure of Congress to

make adequate appropriation for their support, as it had done for the two years next preceding, the item of reduction being \$200,000, and at times these Indians were reduced to hunger and altogether too near nakedness.

At times during my administration, on the *earnest* and *pitiable* appeal of almost every leading Indian of the tribe (and in accordance with my own judgment as necessary, based upon actual observance of their destitution), I encouraged the licensed traders to credit them to the extent of furnishing limited amounts of subsistence and clothing to relieve suffering, trusting the promises of the Indians to settle these accounts at times of annuity payments, knowing full well that the tribe had ample funds at the disposal of the Government (whenever the same could be made available) to meet all such liabilities without embarrassment.

The precise amount of credit given I am unable to state at this time without access to data not just now at hand.

That portion of this debt contracted during my administration I believe to be just, and that the same should be paid out of Osage funds, in accordance with the expressed wish of the tribe, all as I verily believe.

CYRUS BEEDE.

STATE OF IOWA,

Mahaska County, ss:

Subscribed and affirmed before me this 3d day of December, 1885.

F. E. SMITH,

Clerk District Court, a Court of Record.

OSAGE AGENCY, IND. TER.,
August 20, 1880.

HON. COMMISSIONER OF INDIAN AFFAIRS:

SIR: The governor of the Osages and a number of the chiefs have directed or petitioned the honorable Secretary of the Interior to pay a claim of \$16,759.99, due to Hiatt & Co. from said tribe.

As chief of the half-breed band, and having a better knowledge, perhaps, of the origin and character of said claim than any other chief, I unite with them in earnestly asking that the claim be promptly paid, as requested. The Indians and others were led to believe that the payment of about \$15 per head in January, 1878, would be continued at substantially that sum. In that belief I advised H. & Co. to give the Osages a credit for half the sum, knowing that it would greatly accommodate the Indians, and believing it would be entirely safe; but the consequent payment and later ones, instead of \$15, have been but little over \$3 per head. Their present needs absorbed this small sum at once, so there has been no time at which it was possible to pay a debt made in good faith, and of which they reaped the full benefit. Knowing their ability to pay their debts, and grateful for the accommodation, the honor and self-respect of the Osages is concerned in the quick and full discharge of the debt.

I have the honor to be, your obedient servant,

SAMUEL BEIVNEW,
Head Chief of Half-Breed Band.

Witness:

J. H. TISDALE.

THE COMMISSIONER OF INDIAN AFFAIRS:

SIR: The undersigned was a member of the firm of Hiatt & Co., doing business with the Osage Indians at the time referred to in the following statement. There were at the same time (1873), two other firms at the agency, viz, Dunlap & Florer, afterwards Florer & Rankin, and Captain Coy & Co.

The Indians had become indebted to these three concerns for necessary supplies to an amount aggregating from \$16,000 to \$18,000, pretty evenly divided between the three. Finding they could not pay these claims from proceeds of hunt or their small cash annuity, they, in full council and without a dissenting voice, decided to make it a national debt.

To that end they united in a petition, addressed to their agent and the superintendent of Indian affairs, asking the payment of these debts out of their common fund. There was but one petition; it specified the total amount and the amount due the traders respectively. Florer & Rankin and Hiatt & Co.'s claims were paid in full by Superintendent Hoag; owing to some clerical error the claim of Captain Coy & Co. was left out, and paid in part at the next payment, when it was again allowed and agreed to be paid in installments.

Now, this I can say from personal knowledge, the claim of Captain Coy & Co. was on precisely the footing of the others, and as much entitled to full and prompt payment.

Respectfully,

J. M. HIATT.

I have personally and intimately known Col. John M. Hiatt, whose genuine signature is on the other page of this paper, and he is an upright man and a gentleman of undoubted veracity, and I would fully rely on any statement made by him.

SAM. F. MILLER.

The foregoing statement of J. M. Hiatt I know to be true, as I was present aiding Superintendent Hoag to pay the Indians, and heard them in full council discuss these claims and ask the superintendent to pay them, and know that Captain Coy & Co.'s claim would have been paid in full at that time but for a clerical error, which was not discovered until the distribution had been made and payment commenced. I was present at the next payment in the same capacity, when the matter was again brought up in full council and payment asked to be made in installments, the first of which was then made. The justness of the debt was questioned by no one, and I presumed it had been paid long ago.

Respectfully,

JOHN K. RANKIN.

OSAGE INDIAN AGENCY, *July —, 1885.*

I hereby certify upon honor that I, W. H. Connor, whose name is signed to a petition of the business committee of the Osage Nation asking the Secretary of the Interior to pay the late firm of Hiatt & Co., Indian traders at the Osage Agency, the sum of \$16,759.99, and that said business committee made a most thorough investigation of the books and items of credits given by said firm of Hiatt & Co. to the Osage Indians in a time of emergency, it being just at the time of the failure of the last buffalo hunt on the plains, and without such extension of credit, both on the plains and at the agency, very great suffering must have been the result. We had Mr. Gay, chief clerk of said firm, with the books and accounts, both the personal accounts and the items thereof, and after a long and patient investigation were clearly of the opinion that the account as fixed and settled by us was a just account, and in justice ought to be paid.

In testimony of which I hereunto set my hand.

W. H. CONNOR.

Witness:

CHARLES B. CORNISH,
W. E. MCGUIRE.

SENECA, NEWTON COUNTY, MISSOURI,
September 2, 1885.

J. M. HIATT:

DEAR SIR: You ask if I know anything of the books and papers of Hiatt & Co., for some months previous to their being sent to you. I only know this, that when Mr. Gay, who had been your book-keeper for years, left the agency, he gave the books and papers of Hiatt & Co. into the keeping of my husband, Norris Tisdale. This was some time in 1881. They were piled up in our common living-room, accessible to everybody; in fact, many persons did come in and overhaul them. Half of them might have been taken away without my knowing it. Before Norris died he went over the papers and burnt a large number that he thought unnecessary to preserve. I have no doubt the accounts you can not find were among the papers burned, but have no knowledge of the missing books. They, or what was left of them, were boxed up and sent to your address, Keokuk, Iowa.

Very truly, yours,

FANNIE MATHES.

Subscribed and sworn to before me at my office in Seneca, Mo., this 2d day of September, 1885.

J. M. BOYD, *Notary Public.*

My commission expires November 19, 1888.

SIR: At the time of the action of the Osage Indian Committee, August, 1880, and for several years preceding, I had sole charge of the books of Hiatt & Co., licensed traders at Osage Agency. I was familiar with the accounts that make up their claim from the beginning. The accounts were just and correctly kept, and the goods therein charged were furnished the Indians at fair prices, and were needed.

The credits were given in the belief that at the subsequent and following payments the cash per capita payments would be largely increased, but on the contrary the payments were reduced to a mere nominal sum. The credits were given at the earnest request of leading men of the Osage Nation and with the knowledge and approval of the agent. The list of accounts and addition of the same, making an aggregate of \$16,759.99, were made with the utmost care and are correct.

On my leaving the agency, which I did soon afterwards, I left the books, itemized accounts, papers, etc., in charge of Norris Tisdale. He died, and what became of the books and papers thereafter I have no knowledge.

T. R. GAY.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

STATE OF CALIFORNIA,
San Diego County, ss :

T. R. Gay, being duly sworn, upon oath says that the foregoing statement is true of his own knowledge.

T. R. GAY.

Subscribed and sworn to before me this 21st day of September, 1885.

[SEAL.]

D. C. REED,
Notary Public.

STATE OF CALIFORNIA,
County of San Diego, ss :

In the matter of Hiatt & Co. against the Osage Nation, for goods furnished them.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C. :

SIR: I recently made a sworn statement with reference to the above matter, but because it is not sufficiently explicit in all particulars I make this supplemental statement.

In the year 1880 this account, amounting to \$16,759.99, was fully itemized, and when I was present presented to the business committee of the Osage Nation, acting as a council, and composed of Joseph Pawnee no pashe, governor, Big Chief, Strike Axe, Black Dog, and W. H. Connor.

They, in my presence, made a careful and thorough examination of it, and pronounced it correct, just, and satisfactory in every particular and item.

At the time they examined and approved this account they were duly authorized to do so and to act as a business committee for and council of the nation by the Osage tribe of Indians.

T. R. GAY.

STATE OF CALIFORNIA,
County of San Diego, ss :

T. R. Gay, being duly sworn, says that the foregoing statements made and subscribed by him are true.

T. R. GAY.

Personally appeared before me, a notary public within and for the county of San Diego, State of California, T. R. Gay, to me well known to be a credible person, who subscribed and made oath to the foregoing statement before me.

In witness whereof I have hereunto set my hand and affixed my notarial seal this 3d day of December, A. D. 1885.

J. O. W. PAINE,
Notary Public.

This claim, with the request of the governing body, was presented to the Commissioner of Indian Affairs, and, after much delay and inaction, was returned to J. M. Hiatt indorsed "Barred by the statute of limitations," as appeared by the following letter:

WASHINGTON, D. C., August 18, 1886.

Hon. L. Q. C. LAMAR,
Secretary of the Interior :

DEAR SIR: Referring to your communication of to-day as to objections in the way of the payment of the claim of J. M. Hiatt, I would most respectfully give all the information in my possession in reply to the same.

Your first objection, "This investigation shows that said claim has never yet been presented to or considered by the Indian Office." I did present the claim, with all the papers and evidence now on file in the case, to the Commissioner of Indian Affairs. After some time had elapsed they were returned to me indorsed, "Barred by the statute of limitations" (or words to that effect), either on the back of the papers or on the back of the envelope containing them. I was informed verbally that the statute of limitations would be no obstruction to the consideration of the claim by Congress, and I suppose the papers being so indorsed was why the Indian committees of the Senate and House of Representatives did not refer the bill to the Indian Office for information.

The next objection is, "The claim is against individuals of the tribe and not the tribe as a whole, and therefore can not be properly paid out of the tribal fund." I beg leave to suggest that the credit was asked for by the governor, chiefs, and head-men for the entire Osage people, and not for any band, section, or part of them.

The United States Indian agent for the Osages at that time, Cyrus Beede, asked for, approved, and indorsed the extended credit for all, not a part. The evidence clearly proves that great care was taken by Hiatt & Co., in the sale of the goods, by the employment of the United States interpreter, Paul Akin, an educated Indian, and chiefs and head-men, notably Governor Joe (to whom Hiatt gave a note for \$200 for services in the store during the sale of the goods), so that every individual member of all the tribe should receive their fair proportion. From the evidence on this point it is difficult to see how any claim clearly in equity and justice could be more national; it was so regarded by the governor of the Osages and Samuel Bevenew, head chief of the half-breeds, both educated and intelligent men, and all the principal chiefs and head-men of the tribe in office and authority at the time. As to their power to make payment, etc., it seems from the evidence they were the only parties acting at the time for the Osage tribe of Indians, and they did act efficiently in making the debt, and by the advice and approval of United States Indian Agent Beede; and I apprehend if Agent Beede had remained in office the claim would long since have been paid to the satisfaction of all parties. The difficulty, as I understand it, grew out of the hostility of his successor, he being averse to the payment of the claim.

As to the report of December 30, 1880, submitted to the Indian Office, gotten up, as I understand, by the agent and competing Indian traders, who considered their interests adverse to its payment; but even they don't make their seventeen chiefs signing their communication deny the existence of a debt; the worst they make them say is, quoting the secretary's communication of yesterday, "As we are not aware of our people taking but little credit there." It is not at all strange, when the extended credit was not contemplated to be more than one-half of the expected annuity of \$15 per capita, and probably did not much exceed that amount, when we consider that the last buffalo hunt had proved a failure, and they had to look to other sources for next \$7, \$8, or even \$10 per capita for clothing, breadstuff, groceries, meat, and all they would very naturally consider "they were taking but little credit there." Being very poorly able to write at all, I must submit this, imperfect as it is.

I am, truly yours,

W. G. COFFIN,
Attorney in fact for J. M. Hiatt.

PETITION TO CONGRESS.

The claim was then submitted to the Forty-ninth Congress and the following bill passed:

[PRIVATE.—No. 633.]

AN ACT for the relief of J. M. Hiatt, only surviving partner of Hiatt & Co.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to J. M. Hiatt, only surviving partner of Hiatt & Company, late traders for the Osage tribe of Indians, out of any money in the Treasury accruing to the Osage tribe of Indians by act of Congress approved June sixteen, one thousand eight hundred and eighty, the sum of sixteen thousand seven hundred and fifty-nine dollars and ninety-nine cents, or so much thereof as may be found actually due the claimant after an investigation of the fact by the Secretary of the Interior, which sum shall be in full satisfaction of the claim of the said Hiatt & Company against the Osage tribe of Indians for goods sold them on an extended credit,

Approved, July 14, 1886.

The bill was favorably and unanimously reported by the committees of both the Senate and the House, the report being as follows:

The Committee on Indian Affairs, to which was referred the bill (S. 1942) for the relief of Hiatt & Co., respectfully submits the following report:

A careful examination of the testimony on file in this case abundantly shows that the report of the Committee on Indian Affairs of the House of Representatives at the present session on a bill having the same object in view as Senate bill 1942 is sustained by facts, and is adopted, as follows:

On a full examination we find the facts in this case to be as follows: The claimants, Hiatt & Co., were duly licensed traders for the Osage tribe of Indians at the Osage Agency (Pahuska), Indian Territory, during the year 1878. The Indians being in very great destitution and suffering both for food and clothing, owing to the failure of Congress to make adequate appropriation for their support, as it had done for the two years next preceding—the reduction being \$200,000—it is a fact well supported by evidence that nearly, if not quite, all the chiefs, councilors, governor, and head-men of the Osage tribe of Indians made a strong and pitiable appeal to said traders, backed up by Cyrus Beede, United States Indian agent for the Osage Indians at the time, to extend to them a credit of from \$8 to \$10 per capita, promising payment out of their next annuity, which was expected to be ample for the purpose; but instead of being \$15 per capita, as expected, it was reduced to little over \$3 per capita, so that the payment out of that was impossible. It is well supported by evidence that said traders were very careful in making such extended credit, having the advice and assistance of some of the chiefs, Governor Joe (a full-blood, though an educated man), and Paul Akin, United States interpreter, and the then Indian agent, Cyrus Beede, so that the goods and supplies might be fairly distributed to all the families and individuals of the tribe. Before the appropriations were adequate to the payment of the amount of the extended credit (\$16,759.99) Cyrus Beede was superseded, and the claimants found that in consequence of a change of agents an appeal would have to be made to the Commissioner of Indian Affairs for its payment, and in the month of August, 1880, a most thorough and searching investigation was made of all the items composing such extended credit before the governor, chief, councilors, and head-men and head chiefs, acting as a business committee, together with Paul Akin, United States interpreter, and Mr. Gay, chief clerk of Hiatt & Co., who was present with the books and itemized accounts, and after a long and careful investigation the amount above stated was found to be due said firm, as fully appears by the petition for its payment out of their funds in the custody of the Government signed by the chiefs and head-men, which petition is as follows:

To the honorable Secretary of the Interior:

The undersigned, the governor, chief, councilors, and head chiefs, constituting the business committee of the Osage tribe of Indians, respectfully ask that you pay to Hiatt & Co. the sum of \$16,759.99 out of the money accruing to us by act of Congress approved June 16, 1880.

The above sum is the correct aggregate of accounts against our people for supplies furnished them, and which they have hitherto been unable to pay.

The accounts are correct, the supplies were needed and had, and as honest men we desire payment to be made as promptly as possible.

To that end we make this requisition upon you, and this shall be our receipt for the same.

JOSEPH PARD NE NO PARHE,
Governor of the Nation.
STRIKE AX (his x mark), Chief.
BIG CHIEF (his x mark).
BLACK DOG (his x mark).
HARD ROPE (his x mark).
N. H. CONNOR.

Interpreted fully and signed.

Explained in our presence, Osage Agency, Ind. T., August 17, 1880.

W. P. ADAIR.
THOS. R. GAY.
DANIEL TERDALL.

I hereby certify that I am entirely familiar with the character, origin, and amount of Hiatt & Co.'s claim of \$16,759.99 against the Osages, payment of which has been asked by the governor and chiefs of the tribe. I advised giving the credit, and interpreted largely for the Indians when they traded; that I also interpreted and explained fully the order they have given for the payment.

Osage Agency, Ind. T., August 17, 1880.

PAUL AKIN,
United States Interpreter.

The evidence of the then agent in support of the claim is as follows:

OSKALOOSA, IOWA, *December 1, 1885.*

I certify on honor that I have examined the statement of J. M. Hiatt, of the late firm of Hiatt & Co., licensed traders at Osage Agency, Ind. T., and believe the same to be substantially correct.

I was United States Indian agent for the Osage Indians from the early part of the year 1876 to about the 20th of July, 1878. During a great portion of this time the Osages were in a peculiar state of destitution, owing to the failure of Congress to make adequate appropriation for their support, as it had done for the two years next preceding, the item of reduction being \$200,000, and at times these Indians were reduced to hunger and altogether too near nakedness.

At times during my administration, on the *earnest* and *pitiabie* appeal of almost every leading Indian of the tribe (and in accordance with my own judgment as necessary, based upon actual observation of their destitution), I encouraged the licensed traders to credit them to the extent of furnishing limited amounts of subsistence and clothing to relieve suffering, trusting the promises of the Indians to settle these accounts at times of annuity payments, knowing full well that the tribe had ample funds at the disposal of the Government (whenever the same could be made available) to meet all such liabilities without embarrassment.

The precise amount of credit given I am unable to state at this time without access to data not just now at hand.

That portion of this debt contracted during my administration I believe to be just, and that the same should be paid out of Osage funds, in accordance with the expressed wish of the tribe, all as I very believe.

CYRUS BEEDE.

STATE OF IOWA, *Mahaska County, ss:*

Subscribed and affirmed to before me this 3d day of December, 1885.

F. E. SMITH,
Clerk District Court, a Court of Record.

OSAGE AGENCY, IND. T., *August 20, 1880.*

Hon. COMMISSIONER OF INDIAN AFFAIRS:

SIR: The governor of the Osages and a number of the chiefs have directed or petitioned the honorable Secretary of the Interior to pay a claim of \$16,759.99, due to Hiatt & Co. from said tribe.

As chief of the half-breed band, and having a better knowledge perhaps of the origin and character of said claim than any other chief, I unite with them in earnestly asking that the claim be promptly paid as requested. The Indians and others were led to believe that the payment of about \$15 per head in January, 1878, would be continued at substantially that sum. In that belief I advised H. & Co. to give the Osages a credit for half the sum, knowing that it would greatly accommodate the Indians, and believing it would be entirely safe; but the subsequent payment and later ones, instead of \$15, have been but little over \$3 per head. Their present needs absorbed this small sum at once, so there has been no time at which it was possible to pay a debt made in good faith, and of which they reaped the full benefit. Knowing their ability to pay their debts, and grateful for the accommodation, the honor and self-respect of the Osages is concerned in the quick and full discharge of the debt.

I have the honor to be, your obedient servant,

SAMUEL BEIVNEW,
Head Chief of Half-Breed Band.

Witness:

J. H. TISDALE.

The claimant is a resident of Keokuk, Iowa, and is a confirmed invalid, and could not appear before your committee, or furnish an itemized statement of his accounts, for reasons stated in the affidavit; but Hon. Samuel F. Miller, of the Supreme Court, assured your committee that he was a man of unquestioned integrity, and would not, in his judgment, press an unjust account.

Your committee are fully convinced that the Indians are indebted to the claimant in a large sum, and that it is their desire to pay the amount due, and as they have more than \$5,000,000 in the Treasury of the United States, your committee recommend the passage of the bill with an amendment.

The affidavit of Samuel Beivnew, head chief of the half-breed band, is also reported herewith as evidence of the bona fides of the claim, and the claim having been investigated and found correct by the business committee of the Indians may be accepted as an account stated.

In the mean time the new Indian agent, L. J. Miles, sent the following papers, signed by the chiefs and some of the head men, to the Secretary of the Interior :

UNITED STATES INDIAN SERVICE,
Osage Agency, December 23, 1880.

DEAR SIR: Some time ago quite a number of the chiefs and other Indians came to the agency, and after counseling a day or two came to the office and asked that the inclosed petition be written, which they signed and wanted forwarded to your office. I have hesitated to forward the same, thinking it of little consequence, believing that your office would not entertain a claim unless it was made clear, but at a sincere request I forward it herewith.

Mr. H. spoke to me once about his claim, but, not knowing any of the particulars, I declined to have anything to do with it, only to acknowledge that a few of the Indians had mentioned to me that they were indebted to him.

Yours, respectfully,

L. J. MILES,
Agent.

Hon. R. E. TROWBRIDGE,
Indian Commissioner.

To the honorable COMMISSIONER OF INDIAN AFFAIRS and honorable SECRETARY OF INTERIOR:

DEAR SIR: We the undersigned, chiefs and head-men of the Osage Nation, having heard that a few of our head-men have signed a paper authorizing the payment out of our funds of a debt claimed by one of our traders, "Hiatt & Co." to the amount of over \$16,000, we respectfully ask that before said claim is paid you appoint some person to thoroughly investigate the same and consult with our people about it, as we are not aware of our people taking but little credit there.

Very respectfully, yours,

TO-WAN-GE-HE (his x mark).
NE-KAH-KE-PAH-NE (his x mark).
WILLIAM PENN (his x mark).
SA-PA-KE-A (his x mark).
WI-HO-PA-SHIN-KA (his x mark).
WA-TE-AN-KA (his x mark).

Chiefs.

KI-HE-KAH-WA-TI-AN-KAT (his x mark).
LITTLE CHIEF (his x mark).
W. SIS-TAH-WATI-AN-KER (his x mark).
WI-HO-TAH-WAH-NAH-SHE (his x mark).
MO-SHON-O-LI-KAH (his x mark).
WAH-PAH-KEH-AH, or WHITE DOG (his x mark).
WILD CAT (his x mark).
HON-LAH-HUN-KALL (his x mark).
JO MESHELL (his x mark).
WOH-NO-PAH-SHE (his x mark).
CYPRIAN FAYRIEN,
PETER C. BIGHEART, *Captain of Police.*

I certify on honor that the foregoing paper was signed in my presence by the persons whose names are affixed, after being fully interpreted by Peter C. Bigheart, captain of police.

L. J. MILES, *Agent.*

When the Secretary of the Interior came to carry out the provisions of the bill and adjust and settle the claim with J. M. Hiatt he felt it to be his duty to make further inquiry into its justice and correctness, and he directed an Indian inspector, Frank O. Armstrong, to proceed to the Indian agency.

Secretary Lamar's instructions were as follows:

DEPARTMENT OF THE INTERIOR,
Washington, October 13, 1886.

SIR: You have been instructed by letter of this date to proceed to the Osage and other agencies in the Indian Territory.

On the 30th ultimo a letter was addressed by this Department to Inspector R. S. Gardner, inclosing certain papers in the claim of J. M. Hiatt, surviving partner of

Hiatt & Co., late traders at the Osage Agency. This letter was sent by registered mail to Arkansas City, Kans.

You will procure, before leaving this city, such authority from or make such arrangements with the Post-Office Department as will enable you to receive and receipt for that registered communication when you reach Arkansas City, and you will carry out the instructions contained in said letter to Inspector Gardner, making the investigation and report required on the claim.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

General F. C. ARMSTRONG,
United States Indian Inspector, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
Washington, September 30, 1886.

SIR: I inclose herewith the papers in the claim of J. M. Hiatt, surviving partner of Hiatt & Co., late traders for the Osage Indians, during the year 1878; amounting to \$16,759.99, adjudication of which is provided for by the act of July 14, 1886 (private, No. 633, copy inclosed), "after an investigation of the facts by the Secretary of the Interior."

The facts as presented in the evidence are fully, clearly, and fairly set forth in the House and Senate reports here with, numbered 1475 and 828, respectively, of the Forty-ninth Congress, first session. Both committees reached the general conclusion that the evidence established the fact that the traders were justified in granting the credit; that the Indians are indebted to the claimant in a large sum, and that the account against the Indians is fairly stated, and is an honest account; and that, the claim having been investigated and found correct by the business committee of the tribe, it may be accepted as an account stated.

The business committee was created by an act of the council of 1876 (copy inclosed), and authorized, *inter alia*, "to examine and act on behalf of the tribe on all matters of claims against the tribe, individual bands, or members thereof." Their work in this case seems to have been clearly within the scope of their authority under that act. They represented the tribe, examined the claim, ascertained the amount due, and recommended payment thereof out of the tribal funds. Their findings are corroborated by other evidence. (See letter of Samuel Beivnew, head-chief of the half-breed band; letter of ex-Agent Beede; certificate of Paul Aken, United States interpreter, and affidavit of clerks at the time in the employ of the firm.)

In 1880 L. J. Miles, who has succeeded Cyrus Beede as agent for the Osages, forwarded to the Indian Office a paper to which the names of a number of chiefs and headmen are attached, requesting that the claim of Hiatt & Co., before it is paid, be investigated, giving as a reason that "we are not aware of our people taking but little credit there." In 1886 a paper was filed in the Indian Office, signed by Black Dog, principal chief; Paul Aken, Peter C. Bigheart, and E. M. Mathews, as delegates, representing the Osage Nation of Indians, requesting that certain class of claims presented against the Osage Nation be first referred to the national council for investigation and allowance or disallowance before payment.

This paper can hardly be construed as embracing within its general terms this claim of J. M. Hiatt, surviving partner of Hiatt & Co., since it has been examined, the amount ascertained, and a request formulated and addressed by the business committee of the tribe to the Commissioner of Indian Affairs requesting its payment. It has not been rejected by the Osage council, and was not presented without the knowledge of the Osages. The delegates had knowledge of these facts, for one of them (Black Dog) signed the business committee's report on the case, and another, Paul Aken, interpreted for the business committee at the time of their investigation, and also added his certificate as to the justice of the claim.

The law directs the Secretary of the Treasury to pay the sum appropriated (\$16,759.99), or "so much thereof as may be found actually due the claimant after an investigation of the facts by the Secretary of the Interior."

The examination of the record and evidence in the case reasonably convinces me that the Indians are justly indebted to the claimant for necessary supplies furnished them upon credit at the solicitation of their chiefs and headmen, and that he was encouraged thereto by the United States agent and the United States interpreter; that the individuals and families failed to settle the indebtedness thus incurred, because of the large and unexpected decrease in their per capita annuity payment which followed, and out of which claimant had been assured of payment; that the tribe, through its business committee, has examined the claim, ascertained the amount due, and has requested payment thereof out of the tribal funds.

I am aware that there are many difficulties in the way of such a thorough investigation of such a case as will at this distance of time enable you to procure original evidence of the items, values, and character of the articles furnished the Indians. Many of the Indians are dead; others may have imperfect recollections of the details of the case, and still others may have become prejudiced against or unfavorable to the payment of the claim by the operation of influences which do not really affect its merits or justness; but such an investigation can be made of the case as will enable you to determine generally whether supplies to the amount charged were furnished; whether the examination of the accounts by the business committee of the tribe was honestly and fairly made, and whether, upon all the facts in the case and information obtainable thereon, J. M. Hiatt, surviving partner of Hiatt & Co., is justly entitled to payment of the sum found due by the business committee of the tribe in full satisfaction of the claim.

Upon receipt of these papers you will proceed to the Osage Agency, Ind. T., make the investigation of the case thus indicated, and report the result to this Department, returning the inclosed papers with your report.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

Col. R. S. GARDNER,
United States Inspector, Ignacio, La Plata County, Colo.

At this time the original Indian agent, Beede, had been succeeded by a new agent, L. J. Miles, who was hostile to Hiatt. Several of the Indians who had urged the payment of Hiatt's claim were dead; many of the white men who were cognizant of the facts were dead or scattered; new Indian traders were interested in defeating the claim and securing the good will of the Indians, as customers and otherwise, and the Indians themselves, after so much delay and change of circumstances, could be easily induced to repudiate or avoid its payment. The result of the investigation, conducted *ex parte* and in the absence of Hiatt, who was then upon his death-bed, might have been predicted with almost absolute certainty.

THE EVIDENCE.

The only evidence taken by the Indian interpreter is as follows:

QUESTIONS PUT BY INSPECTOR ARMSTRONG.

PAWHUSKA, OSAGE AGENCY, IND. T., November 1, 1886.

(1) W. H. Connor, were you on the business committee of the council who examined the claim of Hiatt & Co., in August, 1880?

I was one of the committee.

(2) Did your committee investigate each account and the amount?

The amount was read before the committee, but no investigation was made.

(3) Were you promised any credits or payment of money if this claim was passed, by Hiatt & Co., or others?

No, I was not.

(4) Was Col. W. P. Adair present, and did he examine the books and papers for your committee?

No, not as I know; but Adair was here at the time.

(5) How do you know whether or not the amount due Hiatt & Co. amounts to \$16,759.99?

The bill was read to us, and that was the amount they stated—\$16,759.99.

(6) Do you know whether or not Governor Joe or others was promised payment if this claim was passed and paid?

No; all I know about the matter was that Miles, our former agent, said such a paper was found with the governor, showing that they had such an obligation.

(7) Could this certificate from the business committee have been obtained without some promise of payments to the members and others of influence in the tribe?

So far as I know myself individually, if the account had been properly investigated it could have passed the committee without any payments to the members.

W. H. CONNOR.

The questions above written were answered by W. H. Connor in his own handwriting and sworn to before me this 1st day of November, 1886.

JAMES I. DAVID,
United States Indian Agent.

UNITED STATES INDIAN SERVICE,
Osage Agency, Ind. T., October 28, 1886.

Paul Aken says:

I was not present when the books and accounts of Hiatt & Co. were examined, nor do I know whether or not they were examined. I believe there was something due Hiatt & Co., but I do not know the amount. I did help to issue the goods, and explained to the Indians the credit they were getting. When I signed the certificate dated August 17, 1880, I did not understand it to mean that I was acquainted with the details or amount, but only the general facts that they had a credit. I did not see W. P. Adair at the time, as I was not there when the certificate of the business committee was signed.

PAUL AKEN.

Witness:

JAS. I. DAVID, *United States Indian Agent.*

Sworn to and signed in my presence this 28th day of October, 1886, at Osage Agency, Ind. T.

FRANK C. ARMSTRONG,
United States Indian Inspector.

UNITED STATES INDIAN SERVICE,
Osage Agency, Ind. T., October 27, 1886.

Black Dog, chief of Osages, says that he does not believe that the Osages owed Hiatt & Co. the amount claimed. He says that he did not see the books, but he saw a number of accounts. Some of the Osages owed large accounts. I was told by the others, Big Chief, Hard Rope, W. H. Connor, and Governor Joe, that they wanted to pay Hiatt & Co., and I signed the paper with the business committee.

BLACK DOG.

Witness:

JOS. I. DAVID, *United States Indian Agent.*

OSAGE AGENCY, IND. T., October 28, 1886.

T. L. Rogers says the business committee that signed and recommended the claim of Hiatt & Co. were appointed by the agent, Cyrus Beede. These were put on that committee because they were favorable to the claim known as "Adair claim." There was no man on the business committee who was competent, except Connor, who could examine accounts.

There had been two national debts paid similar to this. It was distinctly understood that no other claims should be made, and that all accounts after that were to be collected at the payments and at traders' risk. This claim was before the council last fall; they refused to pass it.

T. L. ROGERS.

Witness:

JOHN MCFALL, *Clerk.*

Sworn to and signed before me this 28th October, 1886, at Osage Agency, Ind. T.

FRANK C. ARMSTRONG,
United States Indian Inspector.

OSAGE AGENCY, IND. T., October 2, 1886.

Mr. John N. Florer says: I was a trader at this agency at the time the claim of Hiatt & Co. was brought before the business committee in 1880. I know that Mr. Hiatt had some accounts against the Indians, but I do not know the amounts. It was generally understood that the amounts were not very large. I know also that Hiatt & Co. allowed some of the business committee, Hard Robert, Governor Joe, and others, to come into his store and make accounts at from \$2 to \$500. They told me that they were allowed this credit in consideration of their being members of the business committee before when Hiatt & Co. had a claim to be adjusted. Before Governor Joe died he sent for me and told me that Hiatt & Co. had promised to give \$500 additional in cash when the claim that had passed the committee was paid, and asked me to see that his widow received the money. He died that day. I believe that there is due Hiatt & Co., three or four thousand dollars, and he had opportunity

to collect it, but I do not believe there is any more due. I further know that L. J. Miles, ex-agent, requested Hiatt & Co., or their representative, Mr. Gay, to bring forward their books and call the individual Indians up and he would investigate each individual account himself, and have the Indians present. This they declined to do. This claim has been before the council and they have always asked for the books and investigation, but they never could get any books.

I believe that the signatures to the certificate of the business committee were procured by the undue influence in the way of credits in store and promises of additional payments in money when the claim should be paid. The time that Hiatt & Co. claim that they could not collect their money and the Indians were suffering, I gave credit and collected all that was due me. Only a few years before, the Government, with the consent of the Indians, had paid us all claims held by traders against Osages, with the distinct understanding among us, and signed a paper to that effect, that we were to depend only upon collections from the payments and not present any more claims. Hiatt & Co. signed the agreement with me, and also Captain Coy & Co.

JOHN N. FLORER.

Test:

H. P. BRANHAM.

Sworn to and signed before me, at Osage Agency, Indian Territory, October 28, 1886

FRANK C. ARMSTRONG,
United States Indian Inspector.

Upon this meager evidence the inspector made the following report:

ARKANSAS CITY, KANS., November 2, 1886.

Hon. L. Q. C. LAMAR,

Secretary of the Interior:

SIR: In accordance with instructions from your office, I have been to the Osage Agency and investigated as far as possible the circumstances attending the examination of and passage by the business committee of the Osage council, 1880, the claim of Hiatt & Co. against the Osage tribe.

From the papers placed in my possession giving a full history of the claim and all the evidence given the committee of Congress on which the two reports were based and payment recommended, the claim appears just, and Hiatt & Co. are entitled to pay therefor. Experience having taught me that the indorsements by Indian delegations and councils where large claims have been made by white men are sometimes obtained by improper influences, I thought it best to ascertain the manner of examination made by the business committee of the books and accounts of Hiatt & Co. I am of the opinion that there was no close or careful investigation made by the committee or any members thereof of the accounts or books of Hiatt & Co. That Mr. Gay, the chief clerk and book-keeper of Hiatt & Co., merely presented his statement, and that Governor Joe and some others had been influenced by promises of money and credit to agree to sign and use their influence to get others to sign it. There was no man representing the Osages on the committee who could read or tell anything about an account if it had been shown him, except W. H. Connor. He says in his statement, made November 1, 1886 (yesterday), that no examination was made of the books or accounts. (See his statement inclosed, marked A.)

His character for integrity or truth is very doubtful, and no man who knows him would rely upon him. He also says that he does not remember seeing Col. W. P. Adair present at that time, although he was at the agency. He says also that had the claim been properly investigated it would have passed the committee. This same claim has been thrown out and disapproved by the council since, because no book or papers could be produced for examination.

I came via Keokuk, Iowa, and there called on Mr. Hiatt. He is an invalid, as represented, and broken up generally. He says his books were left in Mr. Tisdale's keeping, who died. His widow shipped the books to Keokuk, and that they were partially destroyed, and at present no information can be gleaned therefrom, so that it is impossible to go into an investigation of the books or accounts.

Paul Akin, interpreter, whose first certificate great stress is laid upon, now says that he was not present when the books, etc., were before the business committee, although his former certificate, filed with the original papers, distinctly says he interpreted and advised in the case and investigation, and also that he knew the amount to be correct. This man understands English, is a half-breed, and can read and write. He knew what he was signing on both occasions, but on the last I put the questions directly to him, and from his looks and conduct at the time I am of the opinion that but little weight can be given his opinions or statements where his interest is at stake, and in this case I believe he has an interest. See his affidavit, marked B, and then read the one printed in the report of Congressional committee.

The last I believe to be nearly the truth ; that is, leaving out the part where he says he did not know what he was signing. He did know very well.

Black Dog, I believe, has stated the truth in this statement, made October 27, 1886, before me. (See inclosure marked C.) He cannot read, and only signs his name. He could not have examined or understood the accounts or books. He stated to me that W. P. Adair was not present.

T. L. Rogers is an intelligent and educated half-breed. He is the judge for the Osage tribe under the council. He is well posted as to all the affairs of the Osage people. The claim he speaks of as the "Adair claim" is a very large one, outside and altogether different from the Hiatt claim, but it seems some of the parties interested in the passage of the Hiatt claim are also interested in this "Adair claim" (see Rogers's statement, marked D, inclosed). I inclose herewith a statement of John N. Florer, formerly trader at Osage Agency, and at present clerk for Mr. Branham, trader at Osage Agency and the Gray Horse store (see inclosure marked E.) Samuel Beivnew, the half-breed, is dead. His widow says nothing was promised him by Hiatt & Co., but that he worked for Hiatt. She believes the claim just, and so did her husband.

There is no way of getting at the amount actually due Hiatt & Co., though I believe there is something due, but not one-half that is claimed. I am satisfied that there never was any examination of the books or accounts of Hiatt & Co. by the committee. I do not believe W. P. Adair was present at any investigation or even conversation relative to the affair. W. H. Connor may have known the amount he recommended in the certificate, but no other member did. I believe the certificate of the business committee was obtained by corrupt influences and promises to pay, and that no one who was competent even looked over the books or papers of Hiatt & Co., representing the interest of the Osages in the matter. I believe that the amount was stated sufficiently large to pay Hiatt & Co. whatever might be due, a few thousand dollars, and also to cover all fees, promises, etc., to the parties getting it through the committee and Department.

I return herewith the papers sent Inspector Gardner and receipted for by me.

Respectfully,

FRANK C. ARMSTRONG,
United States Indian Inspector.

The Secretary of the Interior being in some uncertainty as to the proper course to be pursued, communicated the facts to the President, who, on January 18, 1887, submitted the whole subject to Congress (Executive Document No. 35, Forty-ninth Congress, second session).

To the Senate and House of Representatives :

I transmit herewith a communication of the 7th ultimo, from the Secretary of the Interior, submitting, with accompanying papers, a draft of a bill "for the relief of Hiatt & Co., late traders for the Osage tribe of Indians, and for other purposes."

The matter is presented for the consideration of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION,

January 18, 1887.

DEPARTMENT OF THE INTERIOR,
Washington, December 7, 1886.

THE PRESIDENT :

I have the honor to submit herewith copies of the papers in the matter of the claim of J. M. Hiatt, surviving partner of Hiatt & Co., late traders for the Osage tribe of Indians, amounting to \$16,759.99, for goods alleged to have been sold to the Osage Indians during the year 1873.

The claim came before this Department for settlement under the act (private) "for the relief of J. M. Hiatt, only surviving partner of Hiatt & Co.," approved July 14, 1886 (Pamph. Stat. 1885-'86, page 199), appropriating "the sum of \$16,759.99, or so much thereof as may be found actually due the claimant after an investigation of the facts by the Secretary of the Interior, which sum shall be in full satisfaction of the claim of the said Hiatt & Co. against the Osage tribe of Indians for goods sold them on an extended credit."

With the strong and favorable reports by a committee of each house of Congress, based upon what appeared to be conclusive evidence of the justice of the claim—evidence which purported to show that the claim had been carefully investigated and admitted to be just and correct by the business committee of the tribe, out of whose

funds would be drawn the amount required to make the settlement, and with the assurance of the high character of Mr. J. M. Hiatt and that he would not present an unjust claim, I entered upon the consideration of the case with much confidence that it was meritorious and just. But being mindful that such evidence as that presented in this case is procured with considerable facility, especially from Indians, I deemed it best to have such an investigation made as would at least enable me to determine the *bona fides* of the proofs in the case. This investigation was intrusted to one of the Indian inspectors of this Department, a copy of whose report with accompanying testimony is herewith inclosed, wherein he expresses "the opinion that there was no close or careful investigation made by the committee or any member thereof of the accounts or books of Hiatt & Co.; that Mr. Gay, the chief clerk and book-keeper of Hiatt & Co., merely presented his statement, and that Governor Joe and some others had been influenced by promises of money and credit to agree to sign and use their influence to get others to sign it."

After reviewing the testimony taken by him, comparing it with the previous action and statements of some parties in the case, and showing how unreliable are all of such statements, testimony, etc., he concludes as follows:

"There is no way of getting at the amount actually due Hiatt & Co., though I believe there is something due, but not one-half that is claimed. I am satisfied that there never was any examination of the books or accounts of Hiatt & Co. by the committee. I do not believe W. P. Adair was present at any investigation or even conversation relative to the affair. W. H. Connor may have known the amount he recommended in the certificate, but no other member did. I believe the certificate of the business committee was obtained by corrupt influences and promises to pay, and that no one who was competent ever looked over the books or papers of Hiatt & Co., representing the interest of the Osages in the matter. I believe that the amount was stated sufficiently large to pay Hiatt & Co. whatever might be due, a few thousand dollars, and also to cover all fees, promises, etc., to the parties getting it through the committee and Department."

While the case has been under consideration before me, a claim has been set up by Mrs. Elizabeth A. Leighton, of Keokuk, Iowa, as widow and administratrix of William Leighton, deceased, who, she shows, was a partner with said J. M. Hiatt, for a time at least, in the business out of which this claim grows, and by the terms of copartnership entitled to an equal share in the profits, etc., of said business.

The law provides only for a payment to J. M. Hiatt, as only surviving partner of Hiatt & Co.; and it further provides that such payment shall be in full satisfaction of the claim of Hiatt & Co. against the Osage tribe of Indians.

In view of the foregoing facts I have not felt justified in stating and reporting to the Secretary of the Treasury any account of the claim for allowance and payment to J. M. Hiatt under the law.

I am satisfied that something is due from the Indians for supplies furnished by Hiatt & Co., but do not believe that they are entitled to be paid the full amount claimed.

After carefully weighing the evidence and reports in the case, I am of opinion that one-half of the sum claimed, viz, \$8,380, would cancel the indebtedness of the Osage tribe of Indians to Hiatt & Co. in the matter of this claim; and I therefore present herewith the inclosed draught of a bill, with the recommendation that it be presented to Congress for its action, providing for the use of \$8,380 out of the funds of the Osage tribe of Indians for the relief of Hiatt & Co., and that said sum be apportioned and paid to the person or persons, or their legal representatives if deceased, comprising the firm or copartnership of Hiatt & Co. at the time the claim accrued, in such amounts as their interests in said claim shall be made to appear in proof satisfactory to the proper accounting officers of the Treasury Department; also providing for the repeal of the act entitled "An act for the relief of J. M. Hiatt, only surviving partner of Hiatt & Co.," approved July 14, 1886.

I have the honor to be, very respectfully, your obedient servant,

L. Q. C. LAMAR,
Secretary.

A BILL for the relief of Hiatt and Company, late traders for the Osage tribe of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be and he is hereby authorized and directed to pay out of any money in the Treasury accruing to the Osage tribe of Indians by act of Congress approved June sixteenth, eighteen hundred and eighty, the sum of eight thousand three hundred and eighty dollars in full satisfaction of the claim of Hiatt and Company against the Osage tribe of Indians for goods sold to them on an extended credit, said sum to be apportioned and paid to the per-

son or persons, or their legal representatives if deceased, comprising the firm or co-partnership of Hiatt and Company at the time the claim accrued, in such amounts as their several interests in said claim shall be made to appear in proof satisfactory to the proper accounting officers of the Treasury.

SEC. 2. The act entitled "An act for the relief of J. M. Hiatt, only surviving partner of Hiatt and Company," approved July fourteenth, eighteenth hundred and sixty-six, is hereby repealed.

No action was taken upon this communication by the Forty-ninth Congress, and after its adjournment the Secretary of the Interior allowed and paid to Hiatt one-half the claim, viz, \$8,380. This operated as an execution of the act of July 14, 1886, and Mr. Hiatt had no recourse but to again appeal to Congress, and the present bill is now pending for his relief.

Since that time Mr. Hiatt has died, but a few days before his death he made his last affidavit, which follows, together with that of other persons, in rebuttal of the inspector's report.

In the matter of the claim of J. M. Hiatt, surviving partner of Hiatt & Co., against the Osage Indians, pending before the Secretary of the Interior.

STATE OF IOWA, Lee County, ss :

I, J. M. Hiatt, claimant as above, on my oath state that the statement given as his conclusions of fact by Frank C. Armstrong, United States Indian inspector, in his report on said claim, are unfounded in fact. It is not true that the amount justly due on said claim was not one-half the amount claimed, but on the contrary the whole amount of said claim, to wit, \$16,759.99, is just and true and was examined by the business committee, and certified by said committee to be correct; and I state that W. P. Adair was present at such examination as the friend of the Indians; that such examination was open and honest, and each of the business committee understood what he was doing and the amount of the account which he was approving, or if he did not it was his own fault through inattention.

I reiterate the statements made in my affidavit to the Commissioner of Indian Affairs, of date September 8, 1885, and my letter and affidavit of August 23, 1886, printed in Executive Doc. No. 35, Forty-ninth Congress, second session; and I expressly deny that said certificate of the business committee "was obtained by corrupt influences and promises to pay," as charged on belief in said report of said Indian inspector, and said charge is entirely without any ground in fact. It is a fact that I did, like any other business man, let some Indians have goods on credit, but only such as had an income outside their annuity, and who are worthy of credit, and whom I felt confident would pay me; but such credit was given without a thought on my part or any design whatever of corrupting them or influencing them in my favor in any way, and such credits were given bona fide with the expectation that they would be paid, as other business men, in conducting their business, give bona fide credits; and I earnestly protest that said report not only ignores entirely the evidence which I have presented proving the integrity of my account, but is not warranted by any competent evidence. The charge of corruption and bribery, not only against me but against the best men of the tribe, now dead, is based on the opinion, suspicions, and hearsay of hostile parties, and is wholly untrue.

J. M. HIATT.

Subscribed in my presence and sworn to before me by the above-named J. M. Hiatt this 13th day of January, 1888.

[L. S.]

JOHN E. CRAIG,
Notary Public.

In the matter of the claim of J. M. Hiatt, surviving partner of Hiatt & Co., against the Osage Indians, pending before the Secretary of the Interior.

STATE OF IOWA, Lee County, ss :

I, Daniel Tisdale, of the city of Keokuk, Iowa, having been duly sworn, on my oath state that in the year 1880 I was at the Osage Agency visiting my brother, Morris Tisdale, who was sick and was postmaster at that place. I had been formerly, in 1871 and 1872, in the employ of Hiatt & Co., and on my visit in 1880 I spent a great deal of my time in their office, but was not in their employ. I knew of the examination of the accounts of Hiatt & Co. against the Osage Indians, and now pending before the Secretary of the Interior, by the business committee. It lasted several days. The head-men of the tribe, with W. P. Adair, were out and in the office exam-

ining books and papers. Adair was there acting as the friend of the Indians. Theo. R. Gay had charge of the books and papers. The Indians had an interpreter, and Governor Joe and W. H. Conner understood English. At the end of the examination the certificate which they signed was interpreted to them. I did not understand what the interpreter said to them in their language, but they seemed to understand it and signed it. I was asked to sign as a witness, which I did, with W. P. Adair and Theo. R. Gay. I saw and heard nothing to indicate that the examination and settlement was not fair and honest and not understood by all who participated in it.

DANIEL TISDALE.

Subscribed in my presence and sworn to before me by the above-named Daniel Tisdale this 13th day of January, 1888.

[L. s.]

JOHN E. CRAIG,
Notary Public.

[United States of America, Department of the Interior.]

In the matter of the claim of J. M. Hiatt, surviving partner of Hiatt & Co., v. the Osage Indians, pending before the Secretary of the Interior.

Affidavit of T. R. Gay.

STATE OF CALIFORNIA, *County of San Diego*, ss :

I, T. R. Gay, of the city of San Diego, in said county and State, being duly sworn, state that I was in the employ of Hiatt & Co. as book-keeper at the Osage Agency, Ind. T., for the greater part of the term embracing the years 1875 to 1881, inclusive, I was present during the examination of the business committee of the Osage Indians. The latter part of the year 1880, of the account of Hiatt & Co. against the said Indians, amounting to nearly \$17,000. That W. P. Adair, who was represented to me to be the attorney and friend of the said Osage Indians, was also present and gave his personal attention to the examination of the items and details making up the said account. That the certificate of indebtedness upon said account was interpreted and explained to such members of the said committee as did not understand English, by Paul Aken, the United States interpreter for the Osages, and was signed by them in the presence of said W. P. Adair, Daniel Tisdale, and myself.

T. R. GAY.

Subscribed in my presence and sworn to before me by said T. R. Gay, this 6th day of February, 1888.

[L. s.]

THOMAS HIGGINS,
Notary Public in and for San Diego County, California.

WASHINGTON, D. C., January, 23, 1888.

DEAR SIR: F. C. Armstrong, United States Indian Inspector, in his report to the Interior Department in regard to the claim of Hiatt & Co. against the Osage Indians, makes this statement: "This same claim has been thrown out and disapproved by the council since, because no books or papers could be produced for examination." I, as attorney for Hiatt & Co., did present this claim to the Osage council, with the evidence sustaining it, but it is not true "that it was thrown out and disallowed by the council because no books or papers could be produced for examination." The facts are that all the papers and evidence of the action of the business committee were produced and read and interpreted by the United States interpreter, and no books or other evidence was called for at all. After listening to the presentation of the case, without deliberating or going into any discussion of the merits of the case, they proceeded to take a vote in open council on the indorsement of the claim which I asked of them, and unanimously voted no, and immediately adjourned. I went to the office of Jacob Bartle's trading house, was very soon followed by a member of the council, an educated, influential man, and informed by him that if I would pay eight members of the council \$50 each, four hundred in all, the council would unanimously indorse the claim. This same offer was renewed to me afterward at Bartlesville, Ind. T., and since then here in this city. I have every reason to believe and do believe if I had complied with that request the claim would have been promptly ratified.

All of which is respectfully submitted by yours, truly,

W. G. COFFIN,
Attorney for Hiatt & Co.

The SECRETARY OF THE INTERIOR.

DISTRICT OF COLUMBIA, ss :

Subscribed and sworn to before me this 23d day of January, 1888.

[L. s.]

G. W. BALLOCH,
Notary Public,

KEOKUK, IOWA, *January 30, 1888.*

DEAR SIR: I respectfully but earnestly urge speedy action in the matter of my account, as surviving partner of Hiatt & Co., against the Osage Indians, pending before your Department. I urge this the more on account of the deplorable condition of my health. I am completely prostrated, and naturally feel great solicitude that this matter shall be disposed of before my life closes.

I respectfully submit the following considerations: In view of the well-settled law as to the rights and obligations of surviving partners, the intervention of Mrs. Leighton and her attorney should have no influence in the determination of this matter.

There is no evidence published, worthy of consideration, which impeaches the integrity of the claim.

I can not discuss the report of Indian Inspector Frank C. Armstrong and the nature of the evidence upon which it is based. My attorney will do that if necessary. But I wish to say that no good lawyer will say that said report is warranted even by the so-called evidence on which it seems to have been based. It completely ignores the whole evidence in favor of claim, given by those who knew the facts, and who have always been deemed worthy of credit (except by the author of this report). Most of his conclusions are based on hearsay—much of it second-hand hearsay at that—and from a rival trader, a hostile agent, and others who are now unwilling to pay an honest claim and are interested in the fund out of which it is to be paid, and some of his conclusions have no support even by this kind of evidence. For example, the affidavit of T. L. Rogers gives no shadow of excuse for the gratuitous assumption of the inspector in his report "that some of the parties interested in the passage of the Hiatt claim are also interested in the Adair claim."

The inspector seems to have absorbed every suspicion and taken everything for granted against the integrity of the claim. I am not responsible for the appointment of W. H. Connor on the business committee or of Paul Aken as interpreter. The Indians now, after they have received the benefit, are interested in defeating the payment of the claim; and those from whom the inspector seems to have sought information are interested in making the Indians believe that they are their friends, and those who know the facts from the beginning to the end of the transaction, including the best of the Indians, are dead. The inspector, on his way to the agency, called on me here in Keokuk, and found me prostrated on a sick-bed, and then went on and made his so-called investigation, and then without a single inquiry of me or my attorney as to any circumstances which he might have deemed suspicious, without giving us any opportunity of explanation whatever, without a word or intimation to me or my friends, embodied in his report a charge of deliberate and palpable corruption against me. I submit that this was most unfair and unjust, and was not the way to elucidate the truth.

Very respectfully, yours,

J. M. HIATT.

The SECRETARY OF THE INTERIOR.

I have known J. M. Hiatt intimately and well for thirty-five years, and he is an honest man. He is bed-ridden and has been for several years. I do not doubt the justice of his full claim. I urge its payment.

I concur.

SAM. F. MILLER.

JAMES F. WILSON.

I have known Mr. Hiatt for many years, and am sure he would make no claim he did not believe just. I have had some knowledge of his claim, and think there is equity in it. He is now old and in feeble health, and I will be glad if speedy action can be taken.

Respectfully,

W. B. ALLISON.

I am familiar with this claim and have not the slightest doubt of its absolute justice. Every dollar of it ought to be paid.

D. W. VOORHEES.

It will be seen that the evidence taken by the inspector, Armstrong, is nearly altogether hearsay, and he himself discredits the evidence and impeaches the character of nearly every witness who makes a material statement. The report itself is merely a matter of opinion, belief, or suspicion. Not only this, but the whole statement is refuted by the evidence submitted by Hiatt,

The case is a very clear one. That a credit was extended to the Indians, and at a time when it was imperatively necessary, is not doubted or questioned. It was done on the urgent and piteous request of the chiefs and the governing body of the Indians, as is equally unquestioned, and was approved by the Indian agent. So also is it equally true that the chiefs and governing body made the obligation a national one and guarantied its payment out of the tribe's national fund. The only question that has ever arisen or that now exists is simply as to the aggregate sum of the credit thus extended—How much was the amount of the indebtedness?

The evidence is overwhelming that the creditor, Hiatt & Co., and the debtor, through their legally constituted governing body, met to settle and adjust this account, and that every means and opportunity were furnished the governing body to enable them to see, know, and understand every item of the account. They were engaged in this investigation for several days, and then and there adjusted and settled the account and reduced the same in a formal official request to the Secretary of the Interior, through the Indian Commissioner, to pay the sum thus stated and agreed upon out of the national fund of the Osage Indians.

A more complete, formal, and legal adjustment of the matter can not be conceived or presented. It was the result of careful examination and deliberation, formed upon a present sense of gratitude and obligation. It was approved by the Indian agent, who also at the time urged its payment, and it is incredible that there could have been any fraud or wrong in the settlement without his cognizance and interference.

Such a statement of the account and settlement of a balance is conclusive in all courts of law and equity, unless it is diligently impeached upon the ground of fraud or mistake. It may be modified and reduced by showing errors in items which will be purged from the account and deducted from the agreed balance. The settlement may be repudiated and set aside upon showing that it was procured by fraud; but in either case the evidence must be clear and conclusive. It is much like setting aside a written deed or instrument. Especially must the evidence be clear and satisfactory where the attempt to impeach the settlement is made, as it is in the present case, years after the settlement and after papers and books are lost and parties and witnesses are dead and scattered.

But in the present case there is no legitimate attempt to impeach the justice of the account or the correctness of the settlement. Not a particle of testimony is to the point that any item was erroneous or that anything was included in the account which ought not to have been. Not a word is presented from any witness who pretends to have had any personal knowledge on the subject whatever. When fairly considered and reduced to its real effect the evidence produced simply goes in a vague, general way to create the impression that the settlement was not fully and carefully made, and that some of the persons whom the writings made at the time of the settlement show to have been present, taking part in such settlement, were not present in fact. But all this evidence is flatly in conflict with the written papers executed by these very parties at the time and as part of the settlement. In his report the inspector, Armstrong, discredits these same witnesses. In the mean time, when this last investigation was had, one member of the firm of Hiatt & Co. had died, and the other member, the survivor, was on his death-bed, unable to be present. The inspector sought no information from him, and gave him no opportunity to explain any of

the circumstances or facts which had been gathered from the parties who had succeeded to the situation, and who were either hostile to Hiatt or interested in defeating his claim. The situation, the circumstances, and the parties had completely changed. Not only is there evidence that the new Indian agent was inimical to Hiatt and anxious to defeat his claim, but the Indians are not so much unlike white men but that they can be easily induced to repudiate and deny a claim, however just and meritorious it was, especially if it has become old. There is, besides, very satisfactory evidence that some of the council of Indians who recently objected to the claim and induced the Indian agent, as he says, to send their protest against the claim to the Commissioner of Indian Affairs, were not sincere and were governed by a desire to be paid for their assent and approval of the claim, and would have withdrawn all objection upon payment of a small sum of money.

The report of the Indian inspector, Armstrong, contains inherent evidence of its own insufficiency. It consists of "opinion," "belief," and suspicion, and discredits the very witnesses on whose hearsay statements such opinions are based. It is not sufficient to affect the clear and legal proof of the original statement of the account, made by duly constituted authority and under circumstances which entitle it to credit and belief, and which would stand as competent and satisfactory evidence in any court of law or equity. The character of Mr. Hiatt is above suspicion, and his integrity is vouched for by Mr. Justice Miller, of the Supreme Court, and Senators Allison and Voorhees.

The action of the Department in reducing the amount just one-half was evidently the result, not of belief of the existence of any fraud, but of some slight uncertainty, consequent upon the inspector's report, and from the idea that the account could be docked on general principles. But the slight effect of the inspector's report has been overcome by the later affidavits filed in the case.

In view of the whole case the committee recommend the passage of the bill.